

CHAPTER 69*
LIQUEFIED PETROLEUM GAS—
COMPRESSED NATURAL GAS

701—69.1(452A) Definitions. For the purpose of this chapter, the following definitions shall govern:

“C.N.G.” shall mean compressed natural gas.

“Department” means the department of revenue and finance.

“Director” means the director of the Iowa department of revenue and finance or the director’s authorized representative.

“Distributor” means any person who sells compressed natural gas or liquefied petroleum gas in bulk for highway use.

“Invoiced gallons” means gross gallons as shown on the bill of lading or invoice. A temperature-adjusted method may be used as it applies to liquefied petroleum gas.

“Licensed compressed natural gas and liquefied petroleum gas dealer” means a person in the business of handling untaxed compressed natural gas or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

“Licensed compressed natural gas and liquefied petroleum gas user” means a person licensed by the department who dispenses compressed natural gas or liquefied petroleum gas, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

“Licensed metered pumps or metered pumps” shall mean pumps which have been metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture pursuant to Iowa Code section 452A.8(2)“e.”

“Licensed metered storage or metered storage” shall mean storage facilities which are fixed with “licensed metered pumps.”

“L.P.G.” shall mean liquefied petroleum gas.

“Owner” shall mean and include the owner or the employees, agents, or persons under the control of the owner.

“Special fuel” means liquefied petroleum gas or compressed natural gas.

“Use” means the receipt, delivery, or placing of liquefied petroleum gas by a licensed liquefied petroleum gas user into a fuel supply tank of a motor vehicle while the vehicle is in the state, except that with respect to natural gas used as a special fuel, “use” means the receipt, delivery, or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

In addition to the preceding definitions, applicable definitions contained in Iowa Code section 452A.2 and rule 701—67.1(452A) shall govern the rules in this chapter where applicable.

This rule is intended to implement Iowa Code chapter 452A.

701—69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax. See 701—subrule 68.2(1) for tax rates. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle. The excise tax on C.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle. The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. The person responsible for the tax is:

1. The licensed L.P.G. or C.N.G. dealer, or
2. The licensed L.P.G. or C.N.G. user.

*This chapter effective 1/1/96; see 701—Ch 65, effective through 12/31/95.

The person responsible for placing L.P.G. into the fuel supply tank of a vehicle and the person responsible for placing C.N.G. into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

The report and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G. was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee and must be rounded to the nearest whole number.

This rule is intended to implement Iowa Code section 452A.8.

701—69.3(452A) Penalty and interest. See rules 701—10.6(421) and 701—10.2(421) for failure to timely file a return or for failure to timely pay the tax. See rule 701—10.8(421) for penalty exceptions. See rule 701—10.72(452A) for interest on refunds.

701—69.4(452A) Bonding procedure.

69.4(1) When required, classes of business and new applications for fuel tax permit. See 701—subrule 67.21(1), paragraphs “a” and “b.”

69.4(2) Existing license holders. Existing license holders will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or filing returns timely during the past 12 months when filing returns on a monthly basis. The simultaneous late filing of the return and the late payment of the tax will count as one delinquency. However, the late filing of the return or late payment of the tax will not count as a delinquency if the license holder can satisfy one of the conditions set forth in Iowa Code section 421.27 (penalty waiver). For waiver of bond see 701—paragraph 67.21(1)“e.”

69.4(3) Type of security. See 701—subrule 62.21(2).

701—69.5(452A) Persons authorized to place L.P.G. or C.N.G. in the fuel supply tank of a motor vehicle. The only persons authorized to place L.P.G. or C.N.G. into the fuel supply tank of a motor vehicle are: licensed L.P.G. or C.N.G. dealers, or licensed L.P.G. or C.N.G. users.

69.5(1) L.P.G. or C.N.G. dealer’s license. Anyone who delivers L.P.G. into the fuel supply tank of a motor vehicle or places C.N.G. into compression equipment which tank is owned by some other person must be licensed as an L.P.G. or C.N.G. dealer. A dealer may also fuel the dealer’s own vehicles under this license.

69.5(2) L.P.G. or C.N.G. user’s license. Anyone who delivers L.P.G. or C.N.G. into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it, must be licensed as an L.P.G. or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

69.5(3) L.P.G. “mobile” tank exemption. When a person has an L.P.G. storage tank which is “mobile” and the storage is moved from location to location, that person may be issued an L.P.G. user’s license. This licensee will be allowed to move the storage tank to a new location without procuring a new license for each new location. The issuance of this license is discretionary with the director, and the license will be issued only when the person requesting the license shows a need for mobile storage. The license will be issued to the licensee at the licensee’s principal place of business, and each mobile storage tank is deemed a separate pump at that location.

The operation of such licensed mobile storage shall be subject to the following conditions:

- a. Each mobile storage tank must be fixed with licensed, metered pumps.
- b. Each mobile storage tank shall be assigned a separate number, and the gallonage shall be reported on a per-tank basis.
- c. Each mobile storage tank shall have printed thereon, in strokes not less than six inches in height and three-fourths inches in width, the unit number and licensee's license number.
- d. There may be a total of only nine mobile storage tanks operated under a single license. If the licensee operates more than nine such storage tanks, the licensee must obtain a separate license for each multiple of nine or fraction thereof.
- e. When a licensee changes the licensee's principal place of business, the license shall be canceled and the person must apply for a new license.
- f. All records required to be kept shall be maintained at the licensee's principal place of business.
- g. Except for the requirement of having a separate license for each location where L.P.G. is used, the licensee shall be subject to all the requirements of other licensed L.P.G. users.

69.5(4) *Exemption for emergency filling by distributors.* Upon request from a stranded motorist, an L.P.G. distributor may place up to 20 gallons of L.P.G. into the fuel supply tank of the stranded vehicle without being considered by the department in violation of Iowa Code section 452A.74(5) (acting as an L.P.G. dealer without a license); however, the distributor must remit the tax thereon on a licensed dealer form and pay the tax before the last day of the month following the month of the emergency fill.

This rule is intended to implement Iowa Code section 452A.8.

701—69.6(452A) Requirements to be licensed. To become licensed as an L.P.G. or C.N.G. user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G. or C.N.G. is regularly delivered or placed into the fuel supply tank of motor vehicles. See Iowa Code section 452A.4 and 701—subrule 67.23(1) for licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

701—69.7(452A) Licensed metered pumps. Before an L.P.G. or C.N.G. dealer's or user's license can be issued, all pumps designed to fuel motor vehicles at the location to be licensed must be (1) metered, (2) inspected, (3) tested for accuracy, (4) sealed, and (5) licensed by the department of agriculture and land stewardship. (See 1970 O.A.G. 2.) If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee shall report the gallonage each month with reference to such number.

Each special fuel L.P.G. distributor, dealer, or user may elect to measure L.P.G. for the tax purposes either temperature compensated to 60° F, or without temperature compensation. If the special fuel L.P.G. distributor, dealer or user elects to measure L.P.G. temperature compensated to 60° F for tax purposes, the L.P.G. distributor, dealer or user must use meters which are of an automatic temperature compensating type which shall compute gross gallons corrected to 60° F.

This rule is intended to implement Iowa Code section 452A.8.

701—69.8(452A) Single license for each location. A single license is required for each separate place of business or location where L.P.G. or C.N.G. is delivered into the fuel supply tank of a motor vehicle. For reporting purposes (see rule 69.2(452A)) a licensee may file a separate report for each license; or, if arrangements have been made with the department, the licensee may file a consolidated report reporting all sales made at all locations for which a license is held. However, a consolidated report may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department. All dealer or user operations at that location will be conducted under that license. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G. or C.N.G. is dispensed. For instance, if a licensee holds an L.P.G. or C.N.G. dealer's license for location A and an L.P.G. or C.N.G. user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but may only fuel the licensee's own vehicles at location B.

This rule is intended to implement Iowa Code section 452A.8.

701—69.9(452A) Dealer's and user's license nonassignable. An L.P.G. or C.N.G. dealer's license or user's license cannot be assigned. The following nonexclusive situations will be considered an assignment:

1. A change in the name under which the licensee conducts business.
2. A change in the location where the business is conducted.
3. A sale of the business (even if the new owner(s) operates under the same business name).
4. A merger or other business combination which results in a new or different entity.

This rule is intended to implement Iowa Code section 452A.8.

701—69.10(452A) Separate storage—bulk sales—highway use. If a person is operating as an L.P.G. dealer's or user's licensee and also makes bulk sales for nonhighway use, there must be separate storage for bulk sales and sales for highway. If any amount of L.P.G. in a storage facility is to be used directly from that storage for highway purposes or if the storage is connected to a device which is designed in such a way as to be able to fuel motor vehicles, all fuel dispensed from the storage shall be dispensed through licensed metered pumps. Tax will be paid on the fuel dispensed which is not exempt as evidenced by exemption certificates.

This rule is intended to implement Iowa Code section 452A.8.

701—69.11(452A) Combined storage—bulk sales—highway sales or use. If a person is operating as an L.P.G. dealer's or user's licensee, L.P.G. may be dispensed for bulk nontaxable sales and for taxable highway sales from the same storage if, and only if, the following requirements are complied with:

1. All pumps which are of such a design to be able to fuel motor vehicles must be licensed, sealed, metered, and inspected as provided in rule 69.5(452A).
2. All fuel passing through the pumps is taxed unless supported by exemption certificates.
3. All pumps which are not licensed, sealed, metered, and inspected must be of such a design that it is impossible to use them to place fuel into the fuel supply tank of a motor vehicle.
4. Accurate records must be kept showing all purchases of fuel and all nontaxable bulk sales of fuel.

All L.P.G. which is placed in this combined storage is presumed to be for highway use and taxable unless supported by exemption certificates (for fuel passing through the licensed pumps) or detailed records showing bulk sales for nonhighway use or to other users or dealers (for fuel passing through the nonlicensed pumps). (See 1968 O.A.G. 592.) If at any time the licensee fails to comply with the requirements of this rule, separate storage for taxable sales and nontaxable bulk sales will be required under rule 69.10(452A).

This rule is intended to implement Iowa Code section 452A.8.

701—69.12(452A) Exemption certificates. If L.P.G. is dispensed from metered highway storage for other than highway purposes, an exemption certificate must be completed by the seller and signed by the purchaser. The certificate is to be retained by the dealer or user. The exemption certificate must include, but not be limited to, the following information: the date, the seller's name, the seller's dealer (user) license number, the invoice number covering the fuel sold (if sold by a dealer), an indication of the use to which the fuel will be put, and the name, address, and signature of the purchaser (user). The exemption certificate will be provided by the department or a dealer or user may provide the exemption certificate provided it contains all information required by the director.

These exempt sales of L.P.G. from metered highway storage shall be limited to the following uses:

1. Placed directly into a fuel supply tank which is connected to the heating or cooling unit installed on a highway "reefer" unit, provided the fuel supply tank is not connected nor has provisions for connection directly or indirectly to the power source of the highway motor vehicle.
2. Placed directly into the fuel supply tank of a nonhighway motor vehicle.
3. L.P.G. placed into carry-out containers.

All other sales for other than highway use must be from bulk storage and not from metered highway storage. (See rule 701—68.13(452A), sales tax.)

This rule is intended to implement Iowa Code section 452A.8.

701—69.13(452A) L.P.G. sold to the state of Iowa, its political subdivisions, contract carriers under contract with public schools to transport pupils or regional transit systems.

69.13(1) If L.P.G. is sold to the state of Iowa, its agencies, a political subdivision of the state, or a regional transit system for public use, or a use specified in Iowa Code section 452A.57(11), and placed in storage, it may be sold tax-free. Fuel sold by a dealer and delivered directly into the fuel supply tank of a motor vehicle must be sold tax-paid. Since the L.P.G. delivered into storage is not subject to tax, the governmental unit or regional transit system need not be licensed as a special fuel user. However, if the L.P.G. is used by a governmental unit or regional transit system for other than "public purposes," or a purpose specified in Iowa Code section 452A.57(11), it must obtain a user's license and pay the tax on all highway L.P.G. used from the storage.

69.13(2) L.P.G. sold to a contract carrier under contract with public schools to transport pupils. When special fuel is sold directly to contract carriers who have a contract with a public school under Iowa Code section 285.5 for the transportation of pupils of an approved public or nonpublic school, the fuel shall be sold tax-paid.

If the contract carrier is licensed as an L.P.G. fuel dealer or user, the licensee may buy the fuel tax-free, but the tax must be remitted on the monthly dealer or user report.

Any contract carrier who has paid the tax is entitled to a refund. A refund requested by contract carriers will be reduced by the applicable sales tax, unless otherwise exempt. All contract carriers must apply to the department for a refund registration even if they currently hold a motor fuel tax license.

The refund will be allowed pursuant to the provisions of 701—subrule 68.8(4).

This rule is intended to implement Iowa Code sections 452A.3 and 452A.17.

701—69.14(452A) Refunds. Refunds of taxes paid on L.P.G. used for other than highway use are available. See rule 701—68.8(452A). The refunds are available if the tax has been paid, the L.P.G. is used other than to propel motor vehicles, the person requesting the refund has a refund permit, and the claim is filed within the appropriate time and in the appropriate manner. The income tax credit set forth in rule 701—68.12(452A) shall apply equally to special fuel.

This rule is intended to implement Iowa Code section 452A.17.

701—69.15(452A) Notice of meter seal breakage. Whenever a meter is required under Iowa Code chapter 452A, pursuant to the director's power granted under Iowa Code section 452A.59, and said meter is required to be sealed by Iowa Code chapter 452A, (C.N.G. or L.P.G. dealer and user meters) the department must be notified within 24 hours of the breaking of the seal for any reason. Notice shall contain, but not be limited to, the following information:

1. The name, address, and license number of the person who controls the meter.
2. The meter number.
3. The type of fuel pumped through the meter.
4. The date of seal breakage.
5. The name and address of the person(s) responsible for the seal breakage.
6. The reason for seal breakage.
7. The meter reading before seal breakage.
8. The meter reading after the meter is resealed.
9. The signature of the person who controls the meter.

For reporting purposes, the meter shall be considered two meters, one before the seal breakage and one after, and should be reported on that basis, noting the seal breakage on the report. The meter readings of the meter before the seal breakage shall be reported by meter number as usual. The meter readings after the meter was resealed shall be reported by using the meter number plus the letter "A." The two readings must appear on the same report form.

This rule is intended to implement Iowa Code sections 452A.3, 452A.8, 452A.59, and 452A.62.

701—69.16(452A) Location of records—L.P.G. or C.N.G. users and dealers. The records required to be prepared and kept by L.P.G. or C.N.G. dealers and users under Iowa Code section 452A.10 and 701—subrule 67.3(5) must be maintained at the location that appears on the license unless the following conditions are met:

69.16(1) If the licensee has more than one license, all of the records for each separate license may be kept at a central location so long as the records for each license are kept separated.

69.16(2) The central location where the records are kept is within the state unless:

- a.* The licensee agrees to bring the records back into the state when requested to do so by the department for purposes of audit, or
- b.* The licensee agrees to pay the cost (as defined in rule 701—67.4(452A)) of an out-of-state audit.

This rule is intended to implement Iowa Code sections 452A.10 and 452A.74(2).

All rules in 701—Chapters 67 and 68 apply if not specifically stated in this chapter.

The rules in 701—Chapters 67, 68, and 69 are effective for periods beginning on or after January 1, 1996.

See 701—Chapters 63, 64 and 65 for rules in effect on or prior to December 31, 1995.

[Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 1/1/96]

[Filed 9/20/96, Notice 8/14/96—published 10/9/96, effective 11/13/96]

[Filed 9/5/97, Notice 7/30/97—published 9/24/97, effective 10/29/97]